New Tax Amnesty Law

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Turkey has passed a new law offering taxpayers the opportunity to restructure their unpaid and overdue taxes, social security payments and some other public receivables and to benefit from a partial amnesty for penalties and delay charges on such amounts. The law was passed on May 27, 2017 and became effective on that date and taxpayers have until June 30, 2017 to apply for benefit from it.

This follows the tax amnesty law passed in August 2016, pursuant to which taxpayers had restructured approximately TL 60 billion (approximately $18 billion) in public receivables as of November 2016. However, the scope of this new law is somewhat narrower, as explained below.

1. Public Receivables Covered by the Law

On May 27, 2017, Law no. 7020 ("Law") which offers taxpayers the opportunity to restructure their unpaid and overdue taxes, social security premiums and some other public receivables as well as to benefit from amnesty for penalties and delay charges on them for the period up to June 30, 2016, was published in the Official Gazette and became effective.

This new Law covers the following public receivables:

(i) taxes, duties and charges which are within the scope of Tax Procedure Law no. 213 (which includes all taxes, fees and charges included into the general budget of the Government and taxes, fees and charges belongs to municipalities and provincial special administrations);

(ii) customs duties and fines;

(iii) premiums collected by the Social Security Institution;

(iv) penalties and delay charges that are linked to the receivables above; and

(v) fines and penalties which are not related to or charged on a tax, duty or charge (i.e., standalone fines and penalties);

(vi) other receivables collected by the Ministry of Finance under Law no. 6183 on the Collection Procedure for Public Receivables such as traffic fines, road tolls and some others charged under special legislation.

2. Restructuring of Public Receivables, Amnesty for Penalties and Delay Charges

The Law offers the opportunity for the taxpayer to (i) pay the principal amount of the public receivable in a single or multiple installments and (ii) to be forgiven the penalties and delay charges, if the taxpayer agrees to the payment terms and conditions set forth below.

In each case, the principal amount at issue must be increased by the producer price index ("PPI"); and

(i) if the taxpayer chooses to pay in a single installment, the taxpayer will only be required to pay 50% of the increase or

(ii) if the taxpayer chooses to pay with any of the installment plans described below, the taxpayer must pay the full amount of the increase and the total amount will be multiplied by the coefficient depending on the installments chosen.

The taxpayer may choose from among the following installment options, payment in:

(i) 36 months paying 18 equal bi-monthly installments and multiplying the principal amount by 1.15;

(ii) 12 months paying 24 equal bi-monthly installments and multiplying the principal amount by 1.105;

(iii) 9 months paying 18 equal bi-monthly installments and multiplying the principal amount by 1.083; or

(iv) 6 months paying 12 equal bi-monthly installments and multiplying the principal amount by 1.045.

Penalties and delay charges due on the principal amount of the public receivable will be forgiven if the taxpayer pays (in a single or in multiple installments) the principal amount of the public receivables as increased by the producer price index ("PPI").

For fines and penalties which are not related to or charged on a tax, duty or charge, if the taxpayer increases their principal amounts again by the PPI and agrees to pay them (in a single or in multiple installments), 50% of their principal amount and the related delay charges will be forgiven.

3. Public Receivables subject to Legal Challenge

If taxpayers withdraw ongoing lawsuits challenging the collection of public receivables, they may elect to apply the provisions of the new Law to such receivables as well. Otherwise, those lawsuits will continue to final court judgment and taxpayers lose the right to apply the new Law to those receivables.

4. Deadline for Application and Comparison to the 2016 Law

Taxpayers must apply to restructure their public receivables under the new law by no later than June 30, 2017.

Although the scope of the law is somewhat similar to the provisions of law year's Law no 6736 on Restructuring of Certain Receivables, it is somewhat narrower because it does not cover transactions at the examination and assessment stage, off record assets, recorded assets and receivables from shareholders which do not exist but which are included in the taxpayer's records. The Law does not contain tax base increase provisions which provided tax audit immunity to taxpayers in the tax amnesty law in 2016.

The Law is quite detailed and will be followed by secondary legislation.

The information in this client alert only aims to provide certain useful general information about the Law and should not be relied upon as legal advice.

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